

DECISION

24541
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210478**DATE:** March 17, 1983**MATTER OF:** James H. Gordon - Real Estate
Expenses - 2-Year Time Limitation**DIGEST:**

Employee is not entitled to reimbursement for real estate expenses incurred in connection with his permanent change of station from New Cumberland, Pennsylvania, to Warren, Michigan, on May 19, 1980, since settlement date did not occur within 2 years of date on which employee reported to new duty station as required by FTR para. 2-6.1e (May 1973). The amendment to FTR para. 2-6.1e, allowing 1 year extension of 2-year time limitation for completion of residence transactions, is effective only for employees whose entitlement period had not expired prior to August 23, 1982. Since the employee's entitlement period expired prior to that date, the amendment is not applicable.

The question presented is whether Mr. James H. Gordon, an employee of the Army Tank-Automotive Command, may be reimbursed the expenses he incurred in the sale of a home incident to a permanent change-of-station on May 19, 1980. For the reasons stated below, we hold that he may not be reimbursed.

This decision is in response to a request from Robert A. Kaspari, Finance and Accounting Officer, Army Tank-Automotive Command, Department of the Army. Mr. Gordon was employed by the New Cumberland Army Depot with his duty station located in New Cumberland, Pennsylvania. Due to a reclassification of Mr. Gordon's position, his position was downgraded from GS-13 to GS-12 effective February 17, 1980. However, Mr. Gordon was entitled to his grade of GS-13 for a 2-year period, provided he did not decline a reasonable offer of a position graded at GS-13 or higher. During March 1980, Mr. Gordon was contacted through the career referral program for a lateral assignment to a grade GS-13 position

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with the Army Tank-Automotive and Development Command, Warren, Michigan. Mr. Gordon was subsequently selected for that position which he accepted, mindful that to have done otherwise would have caused a loss of his retained grade entitlement. He was transferred to Warren, Michigan, effective May 19, 1980.

In April 1980, incident to the transfer, he put his house in Harrisburg, Pennsylvania, up for sale. The property has been continuously and consecutively listed with 3 realtors. After 1 year elapsed without a sale, Mr. Gordon petitioned and was granted a 1-year extension which expired on May 19, 1982, without a sale. Mr. Gordon lowered the sale price to entice a buyer, but not one offer was made. The Finance and Accounting Officer confirms Mr. Gordon's claim that his inability to sell his house was due to the severely depressed real estate market in the area, coupled with high interest rates.

The first and only offer for Mr. Gordon's house was not made until September 29, 1982. Mr. Gordon accepted this offer notwithstanding that the offer purportedly entailed his suffering a \$7,000 loss when the closing took place on December 23, 1982.

Chapter 2 of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973), issued by the General Services Administration, governs the entitlements of civilian employees of the Federal Government to relocation allowances. Para. 2-6.1 provides for reimbursing an employee for the expenses of selling a residence at his old official station and of purchasing a residence at his new station. However, at the time in question para. 2-6.1(e) of the FTR imposed a time limitation on such sales and purchases, as follows:

"e. Time limitation. The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale

and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station."

As the above regulation makes clear, the additional period of time after the initial 1-year period may not be extended beyond 1 year. Erwin A. Keith, B-204443, April 5, 1982. While we do not question the contention that Mr. Gordon was unable to sell his residence within the 2-year period as a result of conditions that were essentially beyond his control, the provisions of the Federal Travel Regulations may not be waived or modified by this Office or the agency concerned even though an employee's inability to sell his residence may be due to difficulties in the housing market caused by financing constraints or other factors. See William R. Walberg, 58 Comp. Gen. 539 (1979); Krim M. Ballentine, B-193607, March 8, 1979, and C. Curtis Johnson, B-202402, November 5, 1981.

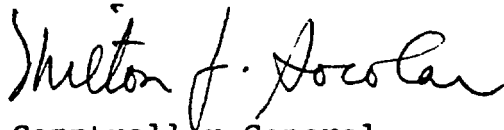
Mr. Gordon has noted that the General Services Administration has issued a change to FTR para. 2-6.1e which extends the residence transaction eligibility period for an additional year beyond the 2-year period when necessary. GSA Bulletin FPMR A-40, Supplement 4, 47 Fed. Reg. 44,565, October 8, 1982. However, the revision is effective only for employees whose entitlement period would not have expired prior to the issuance date (signature date) of Supplement 4. The signature date was August 23, 1982. Unfortunately, Mr. Gordon's entitlement period expired on May 19, 1982. Therefore, the revision to the FTRs allowing for a third year to complete residence transactions is not applicable to Mr. Gordon.

Nor may Mr. Gordon be reimbursed for the loss he suffered when he ultimately sold his residence. Reimbursement for losses on the sale of a residence are specifically prohibited by 5 U.S.C. § 5724a(a)(4). FTR para. 2-6.2e, which implements that provision, provides that losses due

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to failure to sell a residence at the old duty station at the price asked, and any similar losses, are not reimbursable.

Accordingly, there is no authority to allow Mr. Gordon's claim for real estate expenses.

for 
Comptroller General
of the United States